

BACKGROUND:

Setting — The project site is located on 5.6 acres at the southeast corner of North Shore Drive (State Highway 38), a scenic route, and Eagle Mountain Drive in the community of Big Bear City. The Big Bear City Airport is directly south of the site and along the east side of the site is a contractors' storage yard and a mini-storage facility. There are residential land uses on the west side and across State Highway 38 on the north— that are elevated 100 to 200 feet or more above the site. These homes have views of the Big Bear City Airport operations and the industrial operations on the subject property.

The site is a portion of the only ~~land use district~~ area designated as Community Industrial (IC) in the Bear Valley Planning Area, the only land use district that ~~which~~ allows limited exterior storage and encourages industrial buildings that allow for fully enclosed operations. The Improvement Level Overlay requires full urban infrastructure (IL-1). Potential hazards identified in the area are wildland fire (FR-2), flooding (FP-1), airport safety (AR), and ~~geologic (GH) noise (NH)~~ concerns for potential liquefaction, seismic activity, and ~~landslides—noise~~. These overlay districts require increased more stringent construction standards ~~for to protect against fire, flood, and air safety and seismic noise hazards.~~ Conditions of Approval were required relating to fire suppression and protection, pad elevation, structure height, noise attenuation, geologic investigation and storm water control increased pad elevation. ~~The single family homes on the north side are elevated 100 to 200 feet or more above the site. These homes have views of the Big Bear City Airport operations and the industrial operations on the subject property.~~

The site has no structures ~~and but~~ is currently occupied with several unsightly land uses that cover almost 100% of the site. The intensity of the operations has escalated since first commencing in 1991 and is currently subject to Code Enforcement. These operations include: a contractors' storage yard for construction and logging equipment, ~~a logging contractors' work yard,~~ a fire-wood processing and sales operation, green material and green waste storage with chipping/processing of these materials, open storage of salvage material and inoperative vehicles, and the stockpiling of stumps, asphalt waste, concrete waste, construction/demolition waste, and uncompacted, unclean, fill dirt that contains unidentified construction debris. The business remains disorderly and aesthetically unsightly with stockpiles exceeding twenty feet in height from natural grade.

Project History— Since 1991, the applicant has been repeatedly cited for conducting the operations without land use approval. The applicant has applied several times for various land use applications; seeking authorization for the existing uses and a variety of other industrial use proposals. On October 7, 1999, the subject Conditional Use Permit (CUP) project ~~(CUP)~~ was approved by the Planning Commission to establish two (2) 12,000 sq. ft. buildings for heavy equipment repair, storage, and offices; a lumber/firewood/general contractors' storage yard with associated wood/green material processing, including sawing and chipping. The CUP was granted by the Planning Commission to give the applicant the opportunity to clean up the site and the economic incentive to restructure the business activities to conform with those allowed by the IC Land Use District through the CUP approval as approved by the CUP. ~~The CUP also established procedures and timelines for the corrective actions related to existing uses.~~

On September 16, 2002, the applicant filed an Extension of Time requesting an additional 36 months to complete the conditions of approval, based upon his stated a need to have additional time to complete the conditions. On October 7, 2002, County Planning staff denied this request, based upon ~~nonpayment of fees,~~ noncompliance with conditions of approval relating to ongoing operations, ~~and~~ inadequate progress towards accomplishing the goals of the approved project, and nonpayment of fees. On October 17, 2002, the applicant appealed this decision. The CUP approval also expired on this date and will be void if the Planning Commission upholds the staff action and denies the appeal.

ANALYSIS: The applicants' appeal and request to extend the approval period for the CUP should be denied, because the applicant failed to:

- ~~1. Maintain a positive account balance. The account for this project has been in deficit for over three (3) years. The current balance is a negative \$12,480.73 and multiple billings have been sent. No arrangements have been made to pay the outstanding balance.~~
- ~~2.1.~~ Obtain a Mitigation Monitoring and Reporting Program (MMRP) that is required to evaluate compliance with the mitigation measures established for the project.
- ~~3.2.~~ Operate current uses in compliance with the Conditions of Approval and County Code requirements. The applicant is currently subject to enforcement actions for failure to operate his existing uses in compliance with the conditions of approval and the San Bernardino County Code.
- ~~4.3.~~ Obtain a Special Use Permit (SUP). The applicant has failed to obtain a Special Use Permit (SUP) to monitor the ongoing uses on the site as specifically required by the Planning Commission in their action to conditionally approve this project, a violation of condition #21.
- ~~5.4.~~ Make adequate progress towards accomplishing the development proposal that was approved. Specifically the applicant has not submitted any grading plans or building plans for review. Also the applicant has not made any improvements on the real property since the approval (including grading, utility extensions, encroachment permits, landscaping, driveway improvements, ~~or~~ and other screening alternatives.)
- ~~6.5.~~ Complete the one-time grinding operation within the specified time or within the detailed procedures outlined for this operation, a violation of Condition #22.
- ~~7.6.~~ Stockpiling and processing "Green Waste" in conjunction with "Green Material" on this site after the approval, a violation of Condition #1.
- ~~8.7.~~ Install the required fire prevention system.
8. Maintain a positive account balance. The account for this project has been in deficit for over three (3) years. The current balance is a negative \$12,480.73 and multiple billings have been sent. No arrangements have been made to pay the outstanding balance.

The applicant has not completed nor attempted to complete a majority of the conditions of approval. ~~Appendix 1 provides a An annotated list of annotated~~ Conditions of Approval is attached in Appendix II, providing a compliance status. D. ~~In addition, during the last three (3)-years, the surrounding community has observed the applicant continuing to bring unauthorized material to the site. The exterior storage on site is maintained in an unsightly and disorderly manner that creates unscreened blight adjacent to a scenic route. As a result of these complaints, there have been ongoing Code Enforcement activities and court actions regarding this property. (Attached in Appendix III are various judgements, and declarations concerning those Code Enforcement's activities and court orders regarding this property.)~~

The applicant has not yet demonstrated the ability to get the necessary financing to properly complete and operate this project. The County has encouraged the completion of this project, as it would benefit the mountain

community through the diversion of green material (e.g. diseased trees and slash) from the Big Bear Transfer station waste stream. However, ~~d~~During the last year, the applicant imported eucalyptus trees from the valley areas, processed fewer Bear Valley trees –and exceeded the operational criteria for storage height and bulk established by the conditions of approval. This resulted in a court order issuing an injunction for violation of both the conditions of approval and related Fire codes. This method of operation createsd a substantial fire risk.

In addition, ~~t~~he applicant's method of operation demonstrates a lack of understanding and cooperation with County officials in accomplishing the underlying purpose for which this approval was originally granted by the Planning Commission.

Therefore it is recommended that the Planning Commission deny the appeal and uphold the County Planning staff determination to deny the extension of time. The effect of this decision will be that the CUP will no longer be effective and that there is no approved land use on the site.

FINDINGS: CONDITIONAL USE PERMIT - EXTENSION OF TIME

Pursuant to Development Code Section 83.010350 (c), the same findings made in support of an original approval action must also be concurred with prior to approving an Extension of Time application. The following findings from the original approval can no longer be made in the affirmative:

1. The site is not adequate in size and shape to accommodate the proposed use, because the appellant/applicant has failed to demonstrate during the last three years of operation that the approved uses can be conducted on the site in a neat, orderly, aesthetically pleasing and safe manner. The appellant/applicant has been unwilling to maintain or to install all the necessary yards, open spaces, setbacks, walls and fences, parking areas, loading areas, landscaping and other required features to properly conduct operations on the site.
2. The site does not have adequate access from Highway 38 (North Shore Drive), because the appellant/applicant has failed to obtain the required encroachment permit from Caltrans and has not installed the required improvements to provide safe and adequate legal and physical access to the site.
3. The current uses continue to have adverse effects on abutting property or the permitted use thereof as appellant/applicant has failed to operate the uses in compliance with the conditions of approval or install and maintain sufficient buffering measures between the neighboring properties and the uses on the subject site. The site continues to be an unsightly operation that creates blight in the neighborhood. The appellant/applicant has expressed an inability to meet the original Conditions of Approval within a reasonable time frame. These conditions were placed on the project to mitigate adverse impacts.
4. The proposed use and manner of development are not consistent with the goals, policies, standards and maps of the General Plan and any applicable specific plan, because the proposed use is customarily relegated to the Regional Industrial (IR) land use district and the lawful conditions stated in the approval are deemed necessary to protect the public health, safety and general welfare. The project was conditioned to bring it into compliance with the development standards of the Community Industrial (IC) land use district. The applicant's inability to meet those conditions in a timely and responsive manner or do so in the foreseeable future, results in the project being inconsistent with the IC district and incompatible with the goals and policies of the General Plan, as follows:

Land Use: —Policy LU-4(g) and (h) which requires industrial development to meet location and development standards that ensure compatibility with adjacent land uses and community character and to establish performance standards for industrial uses to control industrial odors, air pollution, noise pollution, vibrations, dust, hours of operation, exterior storage, and other nuisances. The conditions of approval and the identified mitigation measures for this project were required to mitigate these concerns. To date, the applicant has not complied with all conditions of approval, and has expressed an inability to do so within the foreseeable future.

Fire Safety. Material is being stored on site in a manner that directly violates the conditions of approval in a manner that has been determined to be unsafe and not in compliance with fire regulations. This conflicts with goals and policies related to Fire Safety.

RECOMMENDATION: That the Planning Commission DENY the appeal and UPHOLD the staff determination to DENY the extension of time for the subject Conditional Use Permit.

Attachments: ~~Vicinity map~~, OLUD map; CUP Site Plan; Assessor Map page as a prefix and in the Appendices:

I) Appeal form, staff letters of approval and extension denial; II) ~~photographs of site~~; Annotated Conditions of Approval, III) Court Orders and Declarations; IV) ~~and a c~~Chronological listing of events and V) current photographs of the site.